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WASHINGTON, D.C. 20231  
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In re Application of  
LINDSAY, Stace et al.

Application No.: 10/030,351

PCT Application No.: PCT/US00/00264

International Filing Date: 06 January 2000

Priority Date: 06 January 1999

Attorney Docket No.: 06727/008002

For: EXPRESSION OF SECRETED HUMAN  
ALPHA -FETOPROTEIN IN  
TRANSGENIC ANIMALS

DECISION ON

PETITION

UNDER 37 CFR 1.137(b)

Applicants' "Petition To Revive Application Under 37 C.F.R. §1.137(b)" filed in the United States Patent and Trademark Office on 07 January 2002 is **GRANTED**.

### **BACKGROUND**

On 06 January 2000, applicants filed an international application, PCT/US00/00264, which claimed a priority date of 06 January 1999. A demand for international preliminary examination was filed on 07 July 2000, prior to the expiration of nineteen months from the priority date. The thirty month period for entering the national stage in the United States expired at midnight on 06 July 2001.

On 07 January 2002, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, a petition to revive, payment of the petition fee and payment of the basic national fee.

### **DISCUSSION**

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicants' statement that "the delay was unintentional" is construed to mean that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). If this is not a correct interpretation, applicants must notify the Office immediately. The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

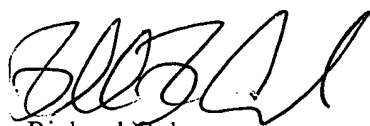
On 07 January 2002, applicants filed a combined declaration and power of attorney along with the petition to revive. However, the declaration is not in compliance with 37 CFR 1.497(a)-(b). The declaration includes two pages 3 of 3, which both identify Mulroy and Semeniuk, but are separately signed by the inventors. This suggests that the declaration that was filed is in fact a composite declaration assembled by separately executed declarations by Mulroy and Semeniuk. Because the complete declaration that was executed by Mulroy or Semeniuk has not been furnished, the requirements under 37 CFR 1.497(a) have not been satisfied.

### CONCLUSION

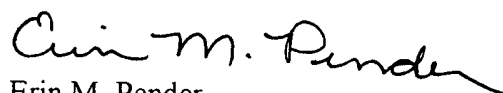
The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

An oath or declaration in compliance with 37 CFR 1.497(a)-(b) must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under §1.136(a) are permitted. **Failure to file a timely and proper reply will result in ABANDONMENT of the application as to the United States of America.**

Any future correspondence with respect to this matter should be directed to the Commissioner for Patents, Box PCT, Washington, DC 20231, and with the contents of the letter directed to the attention of the Office of PCT Legal Administration.



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